

1-1 By: Longoria, et al. (Senate Sponsor - Hinojosa) H.B. No. 12
 1-2 (In the Senate - Received from the House April 13, 2015;
 1-3 April 23, 2015, read first time and referred to Subcommittee on
 1-4 Border Security; May 22, 2015, reported favorably to Committee on
 1-5 Veteran Affairs and Military Installations; May 24, 2015, reported
 1-6 favorably by the following vote: Yeas 7, Nays 0; May 24, 2015, sent
 1-7 to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the border prosecution unit.
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-21 SECTION 1. Chapter 41, Government Code, is amended by
 1-22 adding Subchapter F to read as follows:

1-23 SUBCHAPTER F. BORDER PROSECUTION UNIT

1-24 Sec. 41.351. DEFINITIONS. In this subchapter:

1-25 (1) "Board of directors" means the board of directors
 1-26 of the unit.

1-27 (2) "Border crime" and "border region" have the
 1-28 meanings assigned by Section 772.0071.

1-29 (3) "Border prosecuting attorney" means a prosecuting
 1-30 attorney in a border region who represents the state in the
 1-31 prosecution of felony border crimes.

1-32 (4) "Executive board" means the executive board
 1-33 governing the board of directors of the unit.

1-34 (5) "Prosecuting attorney" means a district attorney,
 1-35 criminal district attorney, or county attorney with felony criminal
 1-36 jurisdiction.

1-37 (6) "Unit" means the border prosecution unit.

1-38 Sec. 41.352. GENERAL FUNCTION OF BORDER PROSECUTION UNIT.

1-39 The border prosecution unit is an independent unit that cooperates
 1-40 with and supports border prosecuting attorneys in prosecuting
 1-41 border crime.

1-42 Sec. 41.353. BOARD OF DIRECTORS. (a) The unit is governed
 1-43 by a board of directors composed of the following prosecuting
 1-44 attorneys:

1-45 (1) the district attorney for the 34th Judicial
 1-46 District;

1-47 (2) the district attorney for the 38th Judicial
 1-48 District;

1-49 (3) the district attorney for the 49th Judicial
 1-50 District;

1-51 (4) the district attorney for the 63rd Judicial
 1-52 District;

1-53 (5) the district attorney for the 79th Judicial
 1-54 District;

1-55 (6) the district attorney for the 81st Judicial
 1-56 District;

1-57 (7) the district attorney for the 83rd Judicial
 1-58 District;

1-59 (8) the district attorney for the 112th Judicial
 1-60 District;

1-61 (9) the district attorney for the 143rd Judicial

2-1 District;
 2-2 (10) the district attorney for the 156th Judicial
 2-3 District;
 2-4 (11) the district attorney for the 229th Judicial
 2-5 District;
 2-6 (12) the district attorney for the 293rd Judicial
 2-7 District;
 2-8 (13) the district attorney for the 452nd Judicial
 2-9 District;
 2-10 (14) the criminal district attorney for Hidalgo
 2-11 County;
 2-12 (15) the county attorney with felony criminal
 2-13 jurisdiction for Cameron County;
 2-14 (16) the district attorney for Kleberg and Kenedy
 2-15 Counties;
 2-16 (17) the county attorney with felony criminal
 2-17 jurisdiction for Willacy County; and
 2-18 (18) any other prosecuting attorney who represents the
 2-19 state in the prosecution of felonies for a judicial district that is
 2-20 created by the legislature in the border region.
 2-21 (b) A prosecuting attorney described by Subsection (a)
 2-22 shall serve on the board of directors in addition to the other
 2-23 duties of the prosecuting attorney assigned by law.
 2-24 (c) The board of directors shall meet annually for the
 2-25 purpose of electing the executive board and approving or amending
 2-26 bylaws governing the unit.
 2-27 (d) A majority of the members of the board of directors
 2-28 constitutes a quorum for the transaction of business. The board of
 2-29 directors must approve any action by a majority vote of the members
 2-30 present.
 2-31 (e) The board of directors shall divide the border region
 2-32 into three subregions and shall set the boundaries of the
 2-33 subregions as necessary.
 2-34 (f) Each member of the board of directors shall enter into a
 2-35 memorandum of understanding with the unit to collaborate and
 2-36 cooperate in the prosecution of border crime.
 2-37 Sec. 41.354. EXECUTIVE BOARD; DUTIES, AUTHORITY, AND
 2-38 GOVERNANCE. (a) The board of directors is governed by an executive
 2-39 board composed of seven members elected by the membership of the
 2-40 board of directors, as follows:
 2-41 (1) six members of the executive board shall be
 2-42 elected to represent the subregions established under Section
 2-43 41.353(e), with two members from each subregion elected by a
 2-44 majority vote of the members of the board of directors whose
 2-45 jurisdiction is located in that subregion; and
 2-46 (2) one member of the executive board shall be elected
 2-47 by a majority vote of all members of the board of directors.
 2-48 (b) The board of directors shall establish procedures for
 2-49 the election of the members of the executive board.
 2-50 (c) Members of the executive board shall serve terms of two
 2-51 years expiring January 1 of each odd-numbered year.
 2-52 (d) If a vacancy on the executive board occurs before the
 2-53 end of the vacating member's term, the executive board shall elect a
 2-54 person to serve the remainder of the term. To be eligible for
 2-55 election under this subsection, a person must meet any
 2-56 qualifications required of the vacating member for service on the
 2-57 executive board.
 2-58 (e) The executive board shall conduct the business of the
 2-59 unit.
 2-60 (f) A majority of the members of the executive board
 2-61 constitutes a quorum for the purpose of transacting business. The
 2-62 executive board must approve any action by a majority vote of the
 2-63 members present.
 2-64 Sec. 41.355. OFFICERS. (a) The members of the board of
 2-65 directors, on a majority vote, shall elect from among the
 2-66 membership of the executive board a presiding officer and an
 2-67 assistant presiding officer. The presiding officer serves as the
 2-68 presiding officer of the board of directors and the executive
 2-69 board, and the assistant presiding officer serves as the assistant

3-1 presiding officer of the board of directors and the executive
 3-2 board.

3-3 (b) The presiding officer and the assistant presiding
 3-4 officer serve terms of one year.

3-5 (c) The assistant presiding officer serves as presiding
 3-6 officer of the board of directors and the executive board in the
 3-7 presiding officer's absence or if a vacancy occurs in that office
 3-8 until a new presiding officer is elected as provided by Subsection
 3-9 (d).

3-10 (d) If a vacancy occurs in the office of presiding officer
 3-11 or assistant presiding officer before the end of the vacating
 3-12 officer's term, the executive board shall elect a person to serve
 3-13 the remainder of the term.

3-14 Sec. 41.356. MEMBERSHIP ON BOARD OF DIRECTORS OR EXECUTIVE
 3-15 BOARD NOT A CIVIL OFFICE OF EMOLUMENT. A position on the board of
 3-16 directors or the executive board may not be construed to be a civil
 3-17 office of emolument for any purpose, including those purposes
 3-18 described in Section 40, Article XVI, Texas Constitution.

3-19 Sec. 41.357. REIMBURSEMENT FOR EXPENSES. A member of the
 3-20 board of directors or executive board is not entitled to
 3-21 compensation for service on the board of directors or executive
 3-22 board, if applicable, but is entitled to be reimbursed for
 3-23 necessary expenses incurred in carrying out the duties and
 3-24 responsibilities of a member of the board of directors or the
 3-25 executive board, if applicable, as provided by the General
 3-26 Appropriations Act.

3-27 Sec. 41.358. UNIT ADMINISTRATOR; REGIONAL COUNSEL;
 3-28 ADDITIONAL EMPLOYEES. (a) The executive board may employ a person
 3-29 to serve as administrator of the unit and shall set the salary and
 3-30 benefits of the administrator.

3-31 (b) The executive board shall employ one or more attorneys
 3-32 as regional counsel for each subregion and shall set the salary and
 3-33 benefits of each regional counsel.

3-34 (c) The executive board may employ additional employees
 3-35 necessary for the discharge of the duties of the unit and shall
 3-36 determine the compensation of those employees.

3-37 Sec. 41.359. DUTIES OF UNIT. (a) The unit, in
 3-38 collaboration with the Department of Public Safety, shall assist
 3-39 and support the members of the board of directors in the prosecution
 3-40 of border crime, including by providing border prosecuting
 3-41 attorneys, investigative and support staff, and other resources.

3-42 (b) The unit shall solicit requests for proposals from each
 3-43 member of the board of directors to provide funding for the member
 3-44 to employ one or more border prosecuting attorneys, to employ
 3-45 investigative and support staff, and to provide other resources.
 3-46 The unit shall review each request and make recommendations to the
 3-47 criminal justice division of the governor's office regarding the
 3-48 distribution of grant money under the prosecution of border crime
 3-49 grant program established under Section 772.0071. A member of the
 3-50 board who employs a border prosecuting attorney or investigative or
 3-51 support staff shall set the salary and benefits of the attorney or
 3-52 staff member.

3-53 (c) The unit may solicit requests for proposals from, and
 3-54 make recommendations under Subsection (b) regarding the
 3-55 distribution of grant money to, a prosecuting attorney who serves a
 3-56 county or counties that are not located in the border region if the
 3-57 Department of Public Safety determines that the county or counties
 3-58 served by the attorney are significantly affected by border crime.

3-59 (d) The unit shall facilitate the coordination and
 3-60 collaboration of the members of the board of directors with the
 3-61 regional counsel employed by the unit and with other law
 3-62 enforcement agencies, including the Department of Public Safety, in
 3-63 the investigation and prosecution of border crime.

3-64 (e) The unit shall develop a nonexclusive list of offenses
 3-65 not otherwise described by Section 772.0071(a)(1) that constitute
 3-66 border crime to provide guidance and enhance uniformity in the
 3-67 investigation and prosecution of border crime.

3-68 (f) The unit shall serve as a clearinghouse for information
 3-69 related to the investigation and prosecution of border crime and

4-1 shall develop best practices and guidelines, including best
 4-2 practices for the collection and protection of confidential law
 4-3 enforcement information regarding each subregion.

4-4 (g) The unit shall assist in developing a training program
 4-5 and providing training to prosecuting attorneys and law enforcement
 4-6 agencies in the border region on specific issues and techniques
 4-7 relating to the investigation and prosecution of border crime.

4-8 Sec. 41.360. DUTIES OF REGIONAL COUNSEL. (a) An attorney
 4-9 employed as regional counsel for the unit shall assist the members
 4-10 of the board of directors, border prosecuting attorneys, and other
 4-11 regional counsel, as needed, in:

4-12 (1) the prosecution of border crime;
 4-13 (2) the screening of cases involving border crime;
 4-14 (3) the presenting of cases involving border crime to
 4-15 a grand jury; and
 4-16 (4) the preparation and trial of cases involving
 4-17 border crime.

4-18 (b) The regional counsel shall serve as a liaison between
 4-19 the members of the board of directors and other criminal justice
 4-20 entities, including the Department of Public Safety and federal,
 4-21 state, and local prosecutors and law enforcement agencies located
 4-22 in the border region, by:

4-23 (1) working closely with those entities, as needed, to
 4-24 coordinate and assist in the investigation and prosecution of
 4-25 border crime; and

4-26 (2) attending multiagency task force hearings and
 4-27 meetings held by federal, state, and local prosecutors and law
 4-28 enforcement agencies on the investigation and prosecution of border
 4-29 crime.

4-30 (c) The regional counsel shall provide legal and technical
 4-31 assistance to law enforcement agencies investigating border crime,
 4-32 including by:

4-33 (1) providing legal advice and recommendations
 4-34 regarding Fourth Amendment search and seizure issues, relevant
 4-35 statutes, and case law;

4-36 (2) drafting and reviewing affidavits requesting the
 4-37 issuance of search warrants, wiretap orders, pen register and trap
 4-38 and trace orders, mobile tracking device orders, and similar court
 4-39 orders; and

4-40 (3) drafting requests for court orders authorizing:
 4-41 (A) the interception of oral, wire, and
 4-42 electronic communications;

4-43 (B) the installation and use of a pen register or
 4-44 trap and trace device;

4-45 (C) the disclosure of subscriber or customer
 4-46 records and information; and

4-47 (D) other similar court orders that are required
 4-48 to be filed by a prosecutor.

4-49 (d) The regional counsel shall coordinate training with the
 4-50 unit for members of the board of directors and law enforcement
 4-51 agencies, including by:

4-52 (1) assisting in identifying training needs in the
 4-53 subregion in which the member's office or the agency is located;

4-54 (2) assisting in the development of training curricula
 4-55 and guidelines for the investigation and prosecution of border
 4-56 crime; and

4-57 (3) participating in and hosting training
 4-58 presentations and sessions in each subregion.

4-59 (e) The regional counsel shall provide legal and technical
 4-60 assistance to border prosecuting attorneys, including by:

4-61 (1) performing legal research relating to
 4-62 investigating and prosecuting border crime, if requested; and

4-63 (2) coordinating with border prosecuting attorneys
 4-64 and law enforcement agencies to identify experts in the
 4-65 investigation and prosecution of complex, long-term cases against
 4-66 organized criminal enterprises.

4-67 Sec. 41.361. GIFTS AND GRANTS. The unit may apply for and
 4-68 accept gifts, grants, and donations from any organization described
 4-69 in Section 501(c)(3) or (4) of the Internal Revenue Code of 1986 for

5-1 the purposes of funding any activity of the unit under this
5-2 subchapter. The unit may apply for and accept grants under federal
5-3 and state programs.

5-4 SECTION 2. Sections 772.0071(a)(1) and (2), Government
5-5 Code, are amended to read as follows:

5-6 (1) "Border crime" means any crime that occurs in the
5-7 border region and that undermines public safety or security,
5-8 including an offense:

5-9 (A) during the prosecution of which an
5-10 affirmative finding may be requested under Section 3g(a)(2),
5-11 Article 42.12, Code of Criminal Procedure;

5-12 (B) under Chapter 19, 20, 20A, 21, 22, 46, or 71,
5-13 Penal Code;

5-14 (C) under Title 7 or 8, Penal Code;

5-15 (D) under Chapter 481, Health and Safety Code;

5-16 (E) committed by a person who is not a citizen or
5-17 national of the United States and is not lawfully present in the
5-18 United States; or

5-19 (F) that is coordinated with or related to
5-20 activities or crimes that occur or are committed in the United
5-21 Mexican States.

5-22 (2) "Border region" means the portion of this state
5-23 that is located in a county that:

5-24 (A) is adjacent to~~+~~

5-25 [~~(A)~~] an international border; [~~or~~]

5-26 (B) is adjacent to a county described by
5-27 Paragraph (A); or

5-28 (C) is served by a prosecuting attorney whose
5-29 jurisdiction includes a county described by Paragraph (A) or (B).

5-30 SECTION 3. Section 772.0071(d), Government Code, is
5-31 repealed.

5-32 SECTION 4. This Act takes effect September 1, 2015.

5-33 * * * * *